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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,329	08/21/2001	Frank Olschewski	21295-39	6790
29127	7590	08/26/2004	EXAMINER	
HOUSTON ELISEEVA 4 MILITIA DRIVE, SUITE 4 LEXINGTON, MA 02421			DO, ANH HONG	
			ART UNIT	PAPER NUMBER
			2624	
DATE MAILED: 08/26/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/682,329	<b>Applicant(s)</b> OLSCHEWSKI, FRANK	
	<b>Examiner</b> ANH H DO	<b>Art Unit</b> 2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/19/02 &amp; 2/12/03</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-18 are rejected under 35 U.S.C. 102(a) as being anticipated by Jansson et al. (U.S. Patent No. 4,672,559).

Regarding claim 1, Jansson discloses:

- depicting a data set in graphical form on a display associated with the microscope (Fig. 1 shows 3-D graphic processor for depicting a 2-D data set in a 3-D graphical form on display monitors 24 and 26 associated with microscope 10);
- selecting at least one position in the graphical form of the data set that depicts an image of the specimen (col. 6, lines 53-56, teaches generating a mark (corresponding to the claimed position) in the graphical form on the mapping display of the data set that depicts the image of the specimen);

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- identifying automatically a region from the data set and the selected position (col. 6, lines 15-18, teaches identifying the region by updating the marker position on the display to indicate the current location of the field of view in the context of the entire specimen);
- performing adjustment operation (Fig. 3A, steps 102-106, teaches adjustment operation on image centering, noise minimizing, optimizing image contrast and brightness, and sensing parameter setting).

Regarding claim 13, Jansson discloses a microprocessor having a software program to perform the steps recited in claim 1 (col. 4, lines 40-42).

Regarding claim 7, Jansson discloses:

- multiple detectors for converting optical signals into electrical signals (Fig. 1: cameras 14 and 16 for converting optical signals into electrical signals);
- an electronic acquisition system, which converts the electrical signals coming from the detectors into digital signals and preprocesses them, is provided (Fig. 1: processor 18 having an A/D converter for converting converts the electrical signals coming from the cameras 14 and 16 into digital signals and preprocesses them);
- a PC, which receives the digital signals from the electronic acquisition system and identifies from the digital signals a graphical depiction which corresponds to an image of the specimen (Fig. 1: 3-D graphic processor 48 receiving digital signals from the electronic acquisition system 18 and identifying from the digital

signals a graphical depiction (i.e., a 3-D graphical form) which corresponds to an image of the specimen);

- a display, which reproduces the graphical depiction and moreover offers selectable adjustment functions to the user, is connected to the PC (Fig. 1: monitors 24 and 26 are connected to processor 48 via processor 18 and bus 20 for reproducing the graphical depiction; and Fig. 3A shows steps 102-106 for performing adjustment operation on image centering, noise minimizing, optimizing image contrast and brightness, and sensing parameter setting).

Regarding claims 2 and 14, Jansson teaches analytical operation is based on the data set of a structure of interest (col. 7, lines 31-52, teaches the operation of centering, minimizing, optimizing and setting in steps 102-106 of Fig. 3A is based on the image data covering a substantial portion of the specimen (corresponding to the claimed data set of a structure of interest)).

Regarding claims 3 and 15, Jansson teaches selecting an adjustment function for execution of an adjustment operation (col. 6, lines 53-67, teaches selecting a mapping mark function as an adjustment function for execution of the adjustment operation).

Regarding claims 4 and 16, Jansson teaches adjustment operation modifies at least one sensing parameter (col. 7, lines 35-51, teaches modifying sensing parameters such as image centering, noise minimizing, image contrast and brightness optimizing, default system parameter setting).

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Regarding claims 5 and 17, Jansson teaches the image sensing parameters consisting of zoom, rotation (col. 5, lines 34-37), image centering, illumination (col. 7, lines 35-46).

Regarding claims 6 and 18, Jansson teaches:

- automatic focusing of a structure of interest within the identified image of the specimen (col. 6, lines 34-42, teaches focusing of a field of view (i.e., structure of interest) within the identified image of the specimen);
- centering of the structure of interest within the image of the specimen (col. 7, lines 35-41).

Regarding claim 8, Jansson teaches a memory that serves for temporary storage of the at least one structure of interest and is connected via a line to a routing unit (Fig. 1: memory 50 and the routing unit 20); and a pixel clock is in communication both with the memory and the routing unit (col. 4, lines 49-53).

Regarding claim 9, Jansson teaches the routing unit having multiple outputs by way of which the microscope is controllable (Fig. 1: bus 20).

Regarding claim 10, Jansson teaches A/D converter (Fig. 1: image processor 18 including D/A).

Regarding claim 11, Jansson teaches computer system inherently including an FPGA (Fig. 1: computer system 40).

Regarding claim 12, Jansson teaches the adjustment functions are arranged on the display in a panel box in the form of multiple click buttons (Fig. 1: monitors 24 and 26).

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANH H DO whose telephone number is 703-308-6720. The examiner can normally be reached on 5/4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DAVID K MOORE can be reached on 703-308-7452. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

August 23, 2004.



**ANH HONG DO  
PRIMARY EXAMINER**